

REMARKS

Objections

The Examiner objects to informalities and grammar errors. *Office Action*, 2. The Applicants note that the claimed reference to ‘create an address-domain pair’ is not the same as the address-domain pairs recited earlier in the claim (e.g., ‘the reputation table including information regarding a plurality of address-domain pairs’). Specifically, the earlier-recited address-domain pairs are stored in a reputation table in memory. The address-domain pair being created is for a particular received message. The Applicants have amended the claims to clarify in this regard (e.g., ‘create an address-domain pair for the received message’). The Applicants therefore submit that the objections are overcome and respectfully request withdrawal of the same.

Rejections under 35 U.S.C. § 112

The Examiner makes several rejections “as being indefinite.” *Office Action*, 3. With respect to ‘the whitelist,’ the Applicants refer the Examiner to the line reciting 13 ‘identify that the determined domain appears on a whitelist’ for the antecedent of ‘the whitelist.’

The Applicants have also clarified that there is a ‘previously received message’ as distinct from the present ‘received message.’ There is, therefore, ‘an IP address’ associated with the ‘previously received message’ and a different ‘IP address’ associated with the ‘received message.’ Thus, when the claim limitations are read in context, the Applicants submit that the references to ‘an IP address,’ ‘a previously received message,’ and ‘the received message’ are not indefinite. The Applicants therefore respectfully request that the Section 112 rejection be withdrawn.

Rejections under 35 U.S.C. § 101

The Examiner rejects claim 35 as lacking statutory subject matter and suggest the addition of ‘non-transitory’ to explicitly exclude transitory embodiments. *Office Action*, 4. The Applicants thanks the Examiner for the suggestion and have amended the claims accordingly. As such, the Applicants request that the Section 101 rejection be withdrawn.

Rejections under 35 U.S.C. § 103

Independent claims 1 and 35 were rejected as obvious based on U.S. patent number 7,206,814 (hereinafter *Kirsch*) in view of U.S. patent application number 2008/0040439 (hereinafter *Wang*). *Office Action*, 4. The Examiner further rejects claims 4 and 32 as obvious based on *Kirsch* and *Wang* in view of U.S. patent application number 2004/0068542 (hereinafter *Lalonde*). *Office Action*, 10. In addition, claims 6, 11, 20, 21, and 23-27 are rejected as obvious based on *Kirsch* and *Wang* in view of U.S. patent number 7,366,761 (hereinafter *Murray*). *Office Action*, 11. In addition, claim 29 is rejected as obvious based on *Kirsch* and *Wang* in further view of U. S. patent application number 2005/0076240 (hereinafter *Appleman*). The Applicants respectfully traverse.

To support a conclusion that the claim would have been obvious requires that all the claimed elements were known in the prior art and that one skilled in the art could have combined those elements. See *KSR v. Teleflex*, 127 S.Ct. 1727, 1739 (2007); see also MPEP § 2143. The Applicants submit that the combination of *Kirsch*, *Wang*, *Lalonde*, *Murray*, and *Appleman* – individually or in any combination -- fail to disclose at least ‘overrid[ing] the whitelist based on the score assigned to the address-domain pair, wherein the message is **classified as spam even though the domain of the message appears on the whitelist.**’ Support can be found in the specification. See e.g., *Specification*, 7:14-16; 16:8-9 (describing that “[a] white list can be overridden if the IP

address and domain based classification provides compelling evidence that the message was not really sent from the stated sender domain" and a "message may be classified as spam even if the user has that domain white listed, because of the strong evidence that that IP address is not a legitimate one").

In the previous office action dated March 26, 2010, the Examiner admits that "*Lalonde, Kirsch, and Wang do not teach overriding a whitelist.*" *March 26, 2010 Office Action*, 7.

In the present office action, however, the Examiner claims that *Kirsch* teaches the claimed 'overrid[ing] the whitelist.' *Office Action*, 5. Specifically, the Examiner references "col. 19, lines 7-14" of *Kirsch*, which is reproduced as follows:

In other embodiments, the Inbox as well as the spam folder is also periodically evaluated to determine if the rating of any of the senders of messages in the Inbox has changed. If the sender's reputation is no longer "good," and the sender **has not been explicitly whitelisted** by the recipient, the message can be removed to a spam folder and processed accordingly or deleted, depending on the rating an the recipient's settings.

Kirsch, 19:7-14 (emphasis added). The section of *Kirsch* referenced by the Examiner cannot teach the claimed override of the whitelist, but it explicitly notes that the sender **has not** been whitelisted. As such, there can be no whitelist to override, and the action described cannot teach the claimed whitelist override. *Kirsch* therefore fails to teach the claimed 'overrid[ing] the whitelist based on the score assigned to the address-domain pair, wherein the message is classified as spam even though the domain of the message appears on the whitelist.'

Wang, Lalonde, Murray, and Appleman do not overcome the deficiencies of *Kirsch* in this regard. In light of the foregoing, the Applicants contend that *Kirsch, Wang, Lalonde, Murray, and Appleman* -- individually or in any combination -- fail to teach all the limitations of the independent claims. Further, as each dependent claim incorporates each and every element of the claim upon which it depends, the dependent claims are allowable for at least the same reasons.

CONCLUSION

The Applicants have evidenced the failure of *Kirsch, Wang, Lalonde, Murray, and Appleman* – individually or in any combination -- to disclose all the limitations of the independent claims, including at least ‘overriding the whitelist based on the score assigned to the address-domain pair, wherein the message is classified as spam even though the domain of the message appears on the whitelist.’

Any claim dependent upon one of the aforementioned independent claims—either directly or via an intermediate dependent claim—is allowable for at least the same reasons as the claim from which it depends. As such, each and every one of the dependent claims of the present application are also in condition for allowance.

As all outstanding rejections are overcome, the Applicants respectfully contend that the application is in condition for allowance. The Examiner is invited to contact the Applicants’ undersigned representative with any questions regarding the present application.

Respectfully submitted,
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